

Message to the Congress Reporting on the Continuation of Export Control Regulations

April 27, 1993

To the Congress of the United States:

1. On September 30, 1990, in Executive Order No. 12730, President Bush declared a national emergency under the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701 *et seq.*) to deal with the threat to the national security and foreign policy of the United States caused by the lapse of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*), and the system of controls maintained under that Act. In that order, the President continued in effect, to the extent permitted by law, the provisions of the Export Administration Act of 1979, as amended, the Export Administration Regulations (15 C.F.R. 768 *et seq.*), and the delegations of authority set forth in Executive Order No. 12002 of July 7, 1977, Executive Order No. 12214 of May 2, 1980, and Executive Order No. 12131 of May 4, 1979, as amended by Executive Order No. 12551 of February 21, 1986.

2. President Bush issued Executive Order No. 12730 pursuant to the authority vested in him as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act (NEA) (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code. At that time, the President also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every 6 months. Additionally, section 401(c) of the NEA requires that the President, within 90 days after the end of each 6-month period following a declaration of a national emergency, report to the Congress on the total expenditures directly attributable to that declaration. This report, covering the 6-month period from October 1, 1992, to March 31, 1993, is submitted in compliance with these requirements.

3. Since the issuance of Executive Order No. 12730, the Department of Commerce has continued to administer and enforce the system of export controls, including antiboycott provisions, contained in the Export Administration Regulations. In administering these controls, the De-

partment has acted under a policy of conforming actions under Executive Order No. 12730 to those required under the Export Administration Act, insofar as appropriate.

4. Since the last report to the Congress, there have been several significant developments in the area of export controls:

—United States Government experts have continued their efforts to implement and strengthen export control systems, including pre-license inspections and post-shipment verifications, in the nations of Central Europe and the former Soviet Union—notably Belarus, Bulgaria, the Czech Republic, Hungary, Kazakhstan, Poland, Romania, Russia, the Slovak Republic, and Ukraine, as they continue their progress towards democracy and market economies. We anticipate that these developments will facilitate enhanced trade in high-technology items and other commodities in the region, while helping to prevent unauthorized shipments or uses of such items. A key element of these efforts continues to be the prevention of proliferation of weapons of mass destruction and corresponding technology.

—Working diligently with our Coordinating Committee (COCOM) partners to expand export control cooperation with the newly developing democracies of Central Europe and the former Soviet Union and to streamline multilateral national security controls, we are pleased to report the following important developments:

—In their November 1992 High-Level Meeting, the COCOM partners took action to significantly liberalize export controls on certain telecommunications exports to the newly independent states (NIS) of the former Soviet Union and other Central European nations, which should facilitate rapid and reliable telecommunications between these nations and the West, as well as modern, cost-effective domestic telecommunications systems. This action was soon thereafter reflected in corresponding amendments to the Export Administration Regulation. (57 F.R. 61259, December 24, 1992.)

—Also in November, at the first High-Level "COCOM Cooperation Forum" (CCF) Meeting, which included the 17 members

of COCOM, most of the newly independent states of the former Soviet Union (NIS), and other Central European nations, the United States announced an \$11 million technical assistance package to assist in the elimination of nuclear arms, enhanced non-proliferation efforts, and export control development. The United States, in cooperation with the CCF, hopes to engage these nations in further establishing controls for trade in sensitive goods and technologies, and to provide an impetus for wider access by those countries to controlled items.

—In the first 2 months of 1993, as a result of Bulgarian and Romanian commitments to undertake the establishment of effective export control systems, COCOM agreed to provide favorable consideration treatment for exports of strategic items to those countries. The Commerce Department is amending its regulations to reflect this development.

—We are also continuing our efforts to address the threat to the national security and foreign policy interests of the United States posed by the spread of weapons of mass destruction and missile delivery systems. As such, we continue to work with our major trading partners to strengthen export controls over goods, technology, and other forms of assistance that can contribute to the spread of nuclear, chemical, and biological weapons and missile systems:

—As of December 1992, the Australia Group (AG), a consortium of nations that seeks to prevent the proliferation of chemical and biological weapons (CBW), increased its membership to 24, with the admission of Iceland and Sweden in 1991 and Argentina and Hungary in 1992. In addition, the delegates agreed to increase from 50 to 54 the number of precursor chemicals subject to control and to adopt a common list of controlled biological items. The Commerce Department published a rule implementing these measures. (57 F.R. 60122, December 18, 1992.) As of December 1992, the delegates also agreed to a refined common control list of dual-use biological equipment. The Commerce Department is in the process of publishing a rule reflecting the changes to conform the U.S. list to the AG list.

—The United States was also a key participant in the Chemical Weapons Convention

(CWC) negotiations in Geneva, Switzerland. On September 3, 1992, the Conference on Disarmament, which drafted the CWC, forwarded to the United Nations General Assembly a draft CWC, which includes a prohibition on the development, production, acquisition, stockpiling, use, or transfer of chemical weapons, as well as provides for destruction of chemical weapons production facilities and stockpiles. The Convention opened for signing in January of this year. The United States strongly supports these provisions and is working to implement them in harmony with our laws.

—In December 1992, the 27-nation Nuclear Suppliers Group (NSG), in which the United States participates, continued its discussions on nuclear-related dual-use controls. The NSG list is similar to the nuclear referral list currently administered by the Department of Commerce. The Department is working to publish a rule to conform the U.S. list with the NSG list. Also in December 1992, the NSG members agreed to procedures intended to standardize and improve the exchange of information among members.

—At the March plenary session in Canberra, the Missile Technology Control Regime (MTCR) members welcomed Iceland as the newest partner, bringing the total membership to 23 nations. Argentina and Hungary were also accepted as members, subject to final arrangements agreed to by the MTCR partners. A licensing and enforcement officers conference will be held in June 1993 to provide an information exchange forum for all partners on implementation of the new extended Guidelines, which now cover missiles capable of delivering all weapons of mass destruction. Previously, the regime covered only missiles capable of delivering nuclear weapons. The future of the MTCR is likely to be a main agenda item for the next plenary session to be held in November 1993.

—In the area of supercomputers, in 1991 the United States established a supercomputer safeguard regime with Japan. Since that time both countries have negotiated with European suppliers to expand this regime. Issues discussed at the March 1993 London meeting include the development of a com-

mon licensing policy and security safeguards.

—Finally, we continue to enforce export controls vigorously. The export control provisions of the Export Administration Regulations are enforced jointly by the Commerce Department's Office of Export Enforcement and the U.S. Customs Service. Both of these agencies investigate allegations and, where appropriate, refer them for criminal prosecution by the Justice Department. Additionally, the Commerce Department has continued its practice of imposing significant administrative sanctions for violations, including civil penalties and denial of export privileges.

—Commerce's Office of Export Enforcement (OEE) has continued its vital preventive programs such as pre-license checks and post-shipment verifications, export license review, and on-site verification visits by teams of enforcement officers in many countries. The OEE has also continued its outreach to the business community to assist exporters with their compliance programs and to solicit their help in OEE's enforcement effort. The OEE further continued its well-received Business Executive Enforcement Team (BEET) to enhance interaction between the regulators and the regulated.

—During this 6-month reporting period, OEE has continued its new program—the Strategic and Nonproliferation Enforcement Program (SNEP)—which targets critical enforcement resources on exports to countries of concern in the Middle East and elsewhere.

—Two particularly important enforcement efforts during the past 6 months in which OEE was involved resulted in the arrest and indictment of several individuals, including several foreign nationals. In one case, OEE special agents arrested an Iranian national, Reza Zandian, and an American citizen, Charles Regar, on charges that they conspired and attempted to export a computer to Iran without the required validated license. The computer, valued in excess of \$2 million, was seized by the Commerce Department. The Department of Justice will seek forfeiture of the computer to the United States. In another case, a British citizen doing business in South Afri-

ca, David Brownhill, was arrested and charged with attempting to export polygraph and thermal imaging system equipment to South Africa without authorization. Both of these cases are currently pending trial.

—In the last 6 months, the Commerce Department has also continued to enforce the antiboycott law vigorously. The Office of Antiboycott Compliance (OAC) maintains 30 full-time staff positions, and OAC has doubled the level of civil penalties it seeks to impose within the statutory \$10,000 per violation maximum. The total dollar amount of civil penalties imposed in fiscal year 1992 approaches \$2,109,000, the second largest amount in the history of the program. This amount includes a civil penalty of \$444,000 imposed in the first case alleging both antiboycott and export control violations.

—One particularly significant antiboycott compliance case was recently concluded by an order of February 11, 1993. Under that order, William Hardimon was assessed a civil penalty of \$54,000, and his export privileges were denied for 6 months. Hardimon allegedly refused to do business with another person in order to comply with an illegal Saudi Arabian requirement, complied with an illegal Kuwaiti boycott request, and failed to report the receipt of the boycott requests.

5. The expenses incurred by the Federal Government in the 6-month period from October 1, 1992, to March 31, 1993, that are directly attributable to the exercise of authorities conferred by the declaration of a national emergency with respect to export controls were largely centered in the Department of Commerce, Bureau of Export Administration. Expenditures by the Department of Commerce are anticipated to be \$17,897,000, most of which represents program operating costs, wage and salary costs for Federal personnel, and overhead expenses.

WILLIAM J. CLINTON

The White House,

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